

## REMARKS

Claims 1-18 and 20 are pending.

Claim 1, 3 and 12 are amended.

Claims 1-18 are rejected.

Claim 20 is new.

### **Claim objections**

Claim 3 has been amended to make independent and include the term "domestic". No new matter has been added. Support may be found on page 11, last paragraph.

### **New Claim 20**

New claim 20 is supported by the disclosure on page 13, last line.

### **Amended Claim 12**

Claim 12 is amended to depend from claim 3 and to correct antecedent basis. No new matter is added.

### **35 USC 102(b)**

**Claims 1-2 are rejected under 35 USC 102(b) as being anticipated by Ghosh et al., US 6,090,399.**

Applicants have amended claim 1 to include the limitations of claim 3. Thus claim 1 is directed to a method for the fungicidal treatment of hard surfaces and textile fiber material comprising contacting said hard surfaces and said textile for materials in a domestic washing process....

Basis for this amendment may be found on page 11, last paragraph.

No new matter is added.

There is now no overlap between Ghosh and the present claims 1 and 2.

### **35 USC 103(a)**

Claims 3-7 and 9-11 are rejected under 35 USC 103(a) as being unpatentable over Ghosh, US 2004/0261196.

The instant invention is directed to a method for treating hard surfaces and textile fibre materials in a domestic washing process with a fungicidal detergent composition containing a compound of formula (I).

The problems underlying the present invention are that under high humid conditions and warm temperatures, fungi develop damp and unpleasant odors on fabrics. Some fungi species as *Chaetomium globosum* are known to produce geosmin, a volatile organic compound with a distinct "earthy" odor. Some discoloration can occur due to the formation of masses of colored spores. Changes in the color fabric are caused by acids and other substances produced by fungi. Mildewed areas are colored from green to shades of brown and deep black. *Chaetomium globosum*, a very common fungus related with occurrence of mildew on fabrics, produces dark grayish green stains on fabrics. The pigment formation is also caused by the acids produced by the action of mildew on cellulose, soil and other food substances present on the fabric (see introductory part of the specification).

These problems are solved by the instant invention, when applying the compound of formula (I) in a domestic detergent solution to the fiber material.

In other words, the invention provides a domestic aqueous washing composition and process in which the garments or fabrics are not only cleaned from soil and the like, but also rendered fungicidal. Moreover this procedure can be repeated at will and if required.

Ghosh (US 2004/0261196) et al. disclose a fabric article treating composition containing

- a) a lipophilic fluid which is immiscible with water at up to 20% by weight of water, such as, for example, siloxanes, hydrocarbons, perfluorinated amines and the like (page 2, paragraph 40 to 42);
- b) an antimicrobial agent and optionally further adjuvants.

A list of examples for antimicrobial agents is given in paragraph 101, where, amongst others 2-(4' Thiazolyl)benzimidazole is mentioned as one alternative.

The invention of Ghosh is directed to a fabric treating composition with substantial amounts of lipophilic fluids. In fact, Ghosh indicates in claim 2, that the lipophilic fluid comprises from about 70% to about 99.99% by weight of the fabric article treating composition. In this regard the composition is essentially a dry cleaning composition, which is totally different from an aqueous domestic laundry composition. The problem solved by Ghosh is "providing superior garment care for articles sensitive to water as compared to conventional fabric article treating compositions" (see last two lines of paragraph 2).

It is obvious that Ghosh's intention is totally different from that of the present invention.

Therefore, the skilled person can get no motivation from Ghosh to use any antimicrobial active substance in pure water detergent formulations. There is even more no motivation of selecting a specific fungicidal compound out of the list of Ghosh for use in a pure water detergent formulation designed for domestic use in conventional washing machines. This would be in total contradiction to the teaching of Ghosh. For this reason, there is totally lacking the required expectation of success.

Therefore, applicants believe the above claims to be unobvious in light of Ghosh.

**Claim 8 is rejected under 35 USC 103(a) as being unpatentable over Ghosh, US 2004/0261196 as applied to claims 3 above in view of Majeti US 2003/0212232.**

Ghosh as explained above is not an appropriate obviousness reference because Ghosh's compositions are essentially a dry cleaning composition, which is totally different from an aqueous domestic laundry composition.

Thus the above combination of Majeti with Ghosh does not work.

**Claims 12-18 are rejected under 35 USC 103(a) as being unpatentable over Majeti et. Al., US 2003/0212232 in view of Ghosh, US 2004/0261196**

Majeti relates to home care formulations comprising polyorganosilixanes for use in treatment of hard surfaces and textile article. Majeti does not teach a compound of formula 1 as recited in claim 1.

1003

Furthermore, examiner believes Majeti and Ghosh to be analogous art because they are in the same field of endeavor, namely, home care compositions of textiles or fabric and other surface.

Applicants disagree. Ghosh is primarily concerned with dry cleaning compositions. The compositions of Ghosh are not appropriate for domestic washing conditions because the composition incorporate high amounts of lipophilic fluids. See claim 2 of Ghosh. Thus the applicants believe the combination of these references do not make sense. Majeti's compositions are primarily water based. Ghosh's lipophilic. There is no motivation to pluck one of the antimicrobials (2-(4'-thiazolyl)benzimidazole from a very long list of antimicrobials suggested in Ghosh which are used in lipophilic solutions and applying to the water based systems of Majeti's.

Thus the applicants believe the rejection to be improper and respectfully requests reconsideration.

Reconsideration and withdrawal of the rejection of claims 1-18 is respectfully solicited in light of the remarks and amendments *supra*.

Since there are no other grounds of objection or rejection, passage of this application to issue with claims 1-18 and 20 is earnestly solicited.

Applicants submit that the present application is in condition for allowance. In the event that minor amendments will further prosecution, Applicants request that the examiner contact the undersigned representative.

Respectfully submitted,



Ciba Specialty Chemicals Corporation  
540 White Plains Road  
Tarrytown, New York 10591  
(914) 785-2768

Shiela A. Loggins  
Agent for Applicants  
Reg. No. 56,221